

Comptroller of the Currency, Treasury

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or (b) of this section limits the authority of the OCC to examine any Federal branch or agency as frequently as the OCC deems necessary.

[63 FR 46120, Aug. 28, 1998, as amended at 64 FR 56952, Oct. 22, 1999; 72 FR 17802, Apr. 10, 2007; 76 FR 43561, July 21, 2011]

Subpart B—Availability of Information Under the Freedom of Information Act

§ 4.11 Purpose and scope.

(a) *Purpose.* This subpart sets forth the standards, policies, and procedures that the OCC applies in administering the Freedom of Information Act (FOIA) (5 U.S.C. 552) to facilitate the OCC's interaction with the banking and savings association industries and the public.

(b) *Scope.* (1) This subpart describes the information that the FOIA requires the OCC to disclose to the public (§ 4.12), and the three methods by which the OCC discloses that information under the FOIA (§§ 4.13, 4.14, and 4.15).

(2) This subpart also sets forth predisclosure notice procedures that the OCC follows, in accordance with Executive Order 12600 (3 CFR, 1987 Comp., p. 235), when the OCC receives a request under § 4.15 for disclosure of records that arguably are exempt from disclosure as confidential commercial information (§ 4.16). Finally, this subpart describes the fees that the OCC assesses for the services it renders in providing information under the FOIA (§ 4.17).

(3) This subpart does not apply to a request for records pursuant to the Privacy Act (5 U.S.C. 552a). A person requesting records from the OCC pursuant to the Privacy Act should refer to 31 CFR part 1, subpart C, and appendix J of subpart C.

(4) This subpart does not apply to FOIA requests filed with the Office of Thrift Supervision (OTS) before July 21, 2011. These requests are subject to the rules of the OTS in effect on July 20, 2011.

[60 FR 57322, Nov. 15, 1995, as amended at 76 FR 43561, July 21, 2011]

§ 4.12 Information available under the FOIA.

(a) *General.* In accordance with the FOIA, OCC records are available to the public, except the exempt records described in paragraph (b) of this section.

(b) *Exemptions from availability.* The following records, or portions thereof, are exempt from disclosure under the FOIA:

(1) A record that is specifically authorized, under criteria established by an Executive order, to be kept secret in the interest of national defense or foreign policy, and that is properly classified pursuant to that Executive order;

(2) A record relating solely to the internal personnel rules and practices of an agency;

(3) A record specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of matters to be withheld;

(4) A record that is privileged or contains trade secrets, or commercial or financial information, furnished in confidence, that relates to the business, personal, or financial affairs of any person (see § 4.16 for notice requirements regarding disclosure of confidential commercial information);

(5) An intra-agency or interagency memorandum or letter not routinely available by law to a private party in litigation, including memoranda, reports, and other documents prepared by OCC employees, and records of deliberations and discussions at meetings of OCC employees;

(6) A personnel, medical, or similar record, including a financial record, or any portion thereof, where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) A record or information compiled for law enforcement purposes, but only to the extent that the OCC reasonably believes that producing the record or information may:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of the right to a fair trial or an impartial adjudication;

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(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution that furnished information on a confidential basis;

(v) Disclose information furnished by a confidential source, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation;

(vi) Disclose techniques and procedures for law enforcement investigations or prosecutions, or disclose guidelines for law enforcement investigations or prosecutions if such disclosure reasonably could be expected to risk circumvention of the law; or

(vii) Endanger the life or physical safety of any individual;

(8) A record contained in or related to an examination, operating, or condition report prepared by, on behalf of, or for the use of the OCC or any other agency responsible for regulating or supervising financial institutions;

(9) A record containing or relating to geological and geophysical information and data, including maps, concerning wells; and

(10) Any OTS information similar to that listed in paragraphs (b)(1) through (9) of this section, to the extent this information is in the possession of the OCC.

(c) *Discretionary disclosure of exempt records.* Even if a record is exempt under paragraph (b) of this section, the OCC may elect, on a case-by-case basis, not to apply the exemption to the requested record. The OCC's election not to apply an exemption to a requested record has no precedential significance as to the application or nonapplication of the exemption to any other requested record, regardless of who requests the record or when the OCC receives the request. The OCC will provide predislosure notice to submitters of confidential commercial information in accordance with § 4.16.

(d) *Segregability.* The OCC provides copies of reasonably segregable portions of a record to any person properly

requesting the record pursuant to § 4.15, after redacting any portion that is exempt under paragraph (b) of this section. The OCC will note the location and extent of any deletion, and identify the FOIA exemption under which material has been deleted, on the released portion of the material, unless doing so would harm an interest protected by the exemption under paragraph (b) of this section pursuant to which the deletion was made. Where technically feasible, the amount of information redacted and the exemption pursuant to which the redaction was made will be indicated at the site(s) of the deletion.

[60 FR 57322, Nov. 15, 1995, as amended at 75 FR 17850, Apr. 8, 2010; 76 FR 43561, July 21, 2011]

§ 4.13 Publication in the Federal Register.

The OCC publishes certain documents in the FEDERAL REGISTER for the guidance of the public, including the following:

(a) Proposed and final rules; and

(b) Certain notices and policy statements of concern to the general public.

§ 4.14 Public inspection and copying.

(a) *Available information.* Subject to the exemptions listed in § 4.12(b), the OCC makes the following information readily available for public inspection and copying:

(1) Any final order, agreement, or other enforceable document issued in the adjudication of an OCC enforcement case, including a final order published pursuant to 12 U.S.C. 1818(u);

(2) Any final opinion issued in the adjudication of an OCC enforcement case;

(3) Any statement of general policy or interpretation of general applicability not published in the FEDERAL REGISTER;

(4) Any administrative staff manual or instruction to staff that may affect a member of the public as such;

(5) A current index identifying the information referred to in paragraphs (a)(1) through (a)(4) of this section issued, adopted, or promulgated after July 4, 1967;

(6) A list of available OCC publications;